

**THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)**  
**Act 94 of 1979**

**388.1701 Eligibility to receive state aid; submission of number of pupils enrolled and in regular daily attendance; certification of data; noncompliance; withholding state aid; falsification; pupil instruction; minimum number of hours or days; guidelines; waiver; counting number of hours of teacher professional development; applicability of subsections (3) and (8) to cyber school.**

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent shall submit to the center, in the form and manner prescribed by the center, the number of pupils enrolled and in regular daily attendance in the district as of the pupil membership count day and as of the supplemental count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the revised school code, MCL 380.1561, shall submit to the center, in the form and manner prescribed by the center, the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the seventh Wednesday after the pupil membership count day and not later than the seventh Wednesday after the supplemental count day, the district shall certify the data in a form and manner prescribed by the center. If a district fails to submit and certify the attendance data, as required under this subsection, the center shall notify the department and state aid due to be distributed under this act shall be withheld from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If a district does not comply with this subsection by the end of the fiscal year, the district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by section 161.

(2) To be eligible to receive state aid under this act, not later than the twenty-fourth Wednesday after the pupil membership count day and not later than the twenty-fourth Wednesday after the supplemental count day, an intermediate district shall submit to the center, in a form and manner prescribed by the center, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. If an intermediate district fails to submit the audited data as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) Except as otherwise provided in subsection (11), all of the following apply to the provision of pupil instruction:

(a) Except as otherwise provided in this section, each district shall provide at least 1,098 hours and, beginning in 2010-2011, the required minimum number of days of pupil instruction. For 2010-2011 and for 2011-2012, the required minimum number of days of pupil instruction is 165. Beginning in 2012-2013, the required minimum number of days of pupil instruction is 170. However, beginning in 2010-2011, a district shall not provide fewer days of pupil instruction than the district provided for 2009-2010. Except as otherwise provided in this act, a district failing to comply with the required minimum hours and days of pupil instruction under this subsection shall forfeit from its total state aid allocation an amount determined by applying a ratio of the number of hours or days the district was in noncompliance in relation to the required minimum number of hours and days under this subsection. Not later than August 1, the board of each district shall certify to the department the number of hours and, beginning in 2010-2011, days of pupil instruction in the previous school year. If the district did not provide at least the required minimum number of hours and days of pupil instruction under this subsection, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (6). Hours or days lost because of strikes or teachers' conferences shall not be counted as hours or days of pupil instruction. If a collective bargaining agreement that provides a complete school calendar is in effect for employees of a district as of the effective date of the 2009 amendatory act that amended this subsection, and if that school calendar is not in compliance with this subsection, then this subsection does not apply to that district until after the expiration of that collective bargaining agreement.

(b) Except as otherwise provided in subdivision (c), a district not having at least 75% of the district's membership in attendance on any day of pupil instruction shall receive state aid in that proportion of 1/180 that the actual percent of attendance bears to the specified percentage.

(c) Beginning in 2005-2006, at the request of a district that operates a department-approved alternative education program and that does not provide instruction for pupils in all of grades K to 12, the superintendent shall grant a waiver for a period of 3 school years from the requirements of subdivision (b) in order to conduct a pilot study. The waiver shall indicate that an eligible district is subject to the proration provisions of subdivision (b) only if the district does not have at least 50% of the district's membership in attendance on any day of pupil instruction. In order to be eligible for this waiver, a district must maintain records to substantiate its compliance with the following requirements during the pilot study:

(i) The district offers the minimum hours of pupil instruction as required under this section.

(ii) For each enrolled pupil, the district uses appropriate academic assessments to develop an individual education plan that leads to a high school diploma.

(iii) The district tests each pupil to determine academic progress at regular intervals and records the results of those tests in that pupil's individual education plan.

(d) The superintendent shall promulgate rules for the implementation of this subsection.

(4) Except as otherwise provided in this subsection, the first 30 hours or 6 days for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, utility power unavailability, water or sewer failure, or health conditions as defined by the city, county, or state health authorities, shall be counted as hours and days of pupil instruction. With the approval of the superintendent of public instruction, the department shall count as hours and days of pupil instruction for a fiscal year not more than 30 additional hours or 6 additional days for which pupil instruction is not provided in a district after April 1 of the applicable school year due to unusual and extenuating occurrences resulting from conditions not within the control of school authorities such as those conditions described in this subsection. Subsequent such hours or days shall not be counted as hours or days of pupil instruction.

(5) A district shall not forfeit part of its state aid appropriation because it adopts or has in existence an alternative scheduling program for pupils in kindergarten if the program provides at least the number of hours required under subsection (3) for a full-time equated membership for a pupil in kindergarten as provided under section 6(4).

(6) Not later than April 15 of each fiscal year, the board of each district shall certify to the department the planned number of hours and days of pupil instruction in the district for the school year ending in the fiscal year. In addition to any other penalty or forfeiture under this section, if at any time the department determines that 1 or more of the following has occurred in a district, the district shall forfeit in the current fiscal year beginning in the next payment to be calculated by the department a proportion of the funds due to the district under this act that is equal to the proportion below the required minimum number of hours and days of pupil instruction under subsection (3), as specified in the following:

(a) The district fails to operate its schools for at least the required minimum number of hours and days of pupil instruction under subsection (3) in a school year, including hours and days counted under subsection (4).

(b) The board of the district takes formal action not to operate its schools for at least the required minimum number of hours and days of pupil instruction under subsection (3) in a school year, including hours and days counted under subsection (4).

(7) In providing the minimum number of hours and days of pupil instruction required under subsection (3), a district shall use the following guidelines, and a district shall maintain records to substantiate its compliance with the following guidelines:

(a) Except as otherwise provided in this subsection, a pupil must be scheduled for at least the required minimum number of hours of instruction, excluding study halls, or at least the sum of 90 hours plus the required minimum number of hours of instruction, including up to 2 study halls.

(b) The time a pupil is assigned to any tutorial activity in a block schedule may be considered instructional time, unless that time is determined in an audit to be a study hall period.

(c) Except as otherwise provided in this subdivision, a pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the individual pupil's best educational interest must be scheduled for a number of hours equal to at least 80% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil. A pupil in grades 9 to 12 who is scheduled in a 4-block schedule may receive a reduced schedule under this subsection if the pupil is scheduled for a number of hours equal to at least 75% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil.

(d) If a pupil in grades 9 to 12 who is enrolled in a cooperative education program or a special education pupil cannot receive the required minimum number of hours of pupil instruction solely because of travel time between instructional sites during the school day, that travel time, up to a maximum of 3 hours per school week, shall be considered to be pupil instruction time for the purpose of determining whether the pupil is receiving the required minimum number of hours of pupil instruction. However, if a district demonstrates to the satisfaction of the department that the travel time limitation under this subdivision would create undue

costs or hardship to the district, the department may consider more travel time to be pupil instruction time for this purpose.

(e) In grades 7 through 12, instructional time that is part of a junior reserve officer training corps (JROTC) program shall be considered to be pupil instruction time regardless of whether the instructor is a certificated teacher if all of the following are met:

(i) The instructor has met all of the requirements established by the United States department of defense and the applicable branch of the armed services for serving as an instructor in the junior reserve officer training corps program.

(ii) The board of the district or intermediate district employing or assigning the instructor complies with the requirements of sections 1230 and 1230a of the revised school code, MCL 380.1230 and 380.1230a, with respect to the instructor to the same extent as if employing the instructor as a regular classroom teacher.

(8) Except as otherwise provided in subsection (11), the department shall apply the guidelines under subsection (7) in calculating the full-time equivalency of pupils.

(9) Upon application by the district for a particular fiscal year, the superintendent may waive for a district the minimum number of hours and days of pupil instruction requirement of subsection (3) for a department-approved alternative education program or another innovative program approved by the department. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section for the specific program covered by the waiver. If the district does not comply with the terms of the waiver, the amount of the forfeiture shall be calculated based upon a comparison of the number of hours and days of pupil instruction actually provided to the minimum number of hours and days of pupil instruction required under subsection (3).

(10) If at least 5 of the hours of professional development are provided online by the Michigan virtual university under section 98 or by another department-approved intermediate district provider of online professional development, a district may count up to 38 hours of qualifying professional development for teachers as hours of pupil instruction. However, if a collective bargaining agreement that provides more than 38 but not more than 51 hours of professional development for teachers is in effect for employees of a district as of October 1, 2006, then until the fiscal year that begins after the expiration of that collective bargaining agreement a district may count up to 51 hours of qualifying professional development for teachers, including the 5 hours of online professional development, as hours of pupil instruction. A district that elects to use this exception shall notify the department of its election. As used in this subsection, "qualifying professional development" means professional development that is focused on 1 or more of the following:

(a) Achieving or improving adequate yearly progress as defined under the no child left behind act of 2001, Public Law 107-110.

(b) Achieving accreditation or improving a school's accreditation status under section 1280 of the revised school code, MCL 380.1280.

(c) Achieving highly qualified teacher status as defined under the no child left behind act of 2001, Public Law 107-110.

(d) Maintaining teacher certification.

(11) Subsections (3) and (8) do not apply to a school of excellence that is a cyber school, as defined in section 551 of the revised school code, MCL 380.551, and is in compliance with section 553a of the revised school code, MCL 380.553a.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1986, Act 298, Imd. Eff. Dec. 22, 1986;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 142, Imd. Eff. July 15, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Imd. Eff. June 30, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 476, Imd. Eff. June 27, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2004, Act 127, Imd. Eff. June 3, 2004;—Am. 2004, Act 351, Imd. Eff. Sept. 30, 2004;—Am. 2005, Act 41, Imd. Eff. June 7, 2005;—Am. 2005, Act 155, Imd. Eff. Sept. 30, 2005;—Am. 2006, Act 342, Eff. Oct. 1, 2006;—Am. 2009, Act 121, Imd. Eff. Oct. 19, 2009;—Am. 2009, Act 203, Imd. Eff. Jan. 4, 2010.

**Compiler's note:** The last sentence of subsection (4), as amended by Act 180 of 1996, which provided "However, for 1995-96 only, for a school district at or above townline 16, the first 5 days for which pupil instruction is not provided because of conditions described in this subsection shall be counted as days of pupil instruction." was vetoed by the governor on April 22, 1996.

Enacting section 1 of Act 351 of 2004 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at \$11,173,900,000.00 and state appropriations to be paid to

local units of government for fiscal year 2004-2005 are estimated at \$11,113,650,400.00."

Enacting section 1 of 2005 PA 155 provides:

"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act and in House Bill No. 4831 of the 93rd Legislature from state sources for fiscal year 2005-2006 is estimated at \$11,364,814,000.00 and state appropriations to be paid to local units of government for fiscal year 2005-2006 are estimated at \$11,341,913,100.00."

Enacting section 1 of Act 342 of 2006 provides:

"Enacting section 1. (1) In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2006-2007 is estimated at \$11,682,508,200.00 and state appropriations to be paid to local units of government for fiscal year 2006-2007 are estimated at \$11,536,597,200.00.

(2) In accordance with section 30 of article I of the state constitution of 1963, total state spending from state sources for fiscal year 2005-2006 in this amendatory act and 2005 PA 155 is estimated at \$11,308,027,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,285,376,300.00."

Enacting section 1 of Act 121 of 2009 provides:

"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2009-2010 is estimated at \$10,825,754,100.00 and state appropriations to be paid to local units of government for fiscal year 2009-2010 are estimated at \$10,718,801,700.00."

**Administrative rules:** R 340.1 et seq. of the Michigan Administrative Code.